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Environment & Natural Resources Division
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ATTORNEY FOR DEFENDANTS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

**NATIVE ECOSYSTEMS COUNCIL,
and ALLIANCE FOR THE WILD
ROCKIES,**

Plaintiffs,

vs.

**JOHN MEHLHOFF, State Director,¹
the BUREAU OF LAND
MANAGEMENT, DEPARTMENT
OF THE INTERIOR, an agency of the
United States,**

Defendants.

CV 1:18-55-BLG-SPW-TJC

**STIPULATED SETTLEMENT
AGREEMENT**

¹ Substituted pursuant Rule 25(d) of the Federal Rules of Civil Procedure for the prior State Director.

Plaintiffs, Native Ecosystems Council and Alliance for the Wild Rockies., and Defendants, John Mehlhoff, State Director, Bureau of Land Management, Department of the Interior; the Bureau of Land Management, Department of the Interior; and the United States Department of the Interior, by and through their attorneys, stipulate as follows:

WHEREAS, on March 23, 2018, Plaintiffs filed their Complaint for Injunctive Relief alleging that Defendants violated the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.*, the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701-1785, and the Administrative Procedure Act, 5 U.S.C. §§ 701-706, in issuing the Decision Record, Iron Mask Planning Area Environmental Assessment, Decision Record for Vegetation and Riparian Treatments, Iron Mask Planning Area Environmental Assessment, and Final Grazing Decision and Response to Protest – Indian Creek Forage Reserve.

WHEREAS, on March 12, 2019, the Court entered an Order (Doc. 82) and a Judgment (Doc. 83) denying in part and granting in part Plaintiffs’ motion for summary judgment and granting in part and denying in part Defendants’ cross motion for summary judgment, remanding to the Bureau of Land Management to

prepare a supplemental environmental assessment, and enjoining the challenged actions pending the proceedings on remand.

WHEREAS, on April 4, 2019, Plaintiffs filed a Motion for Attorney's Fees and Other Expenses Under the Equal Access to Justice Act (Doc. 85).

WHEREAS, Plaintiffs and Defendants have agreed to the following settlement that they consider to be a just, fair, adequate, and equitable resolution of Plaintiffs' demand for attorney's fees, costs, and expenses.

WHEREAS, Plaintiffs and Federal Defendants agree that settlement of attorney's fees, costs, and expenses in this manner is an appropriate way to resolve the dispute between them.

WHEREAS, Plaintiffs and Federal Defendants enter into this Stipulation without any admission of fact or law, or waiver of any claims or defenses, factual or legal.

ACCORDINGLY, PLAINTIFFS AND DEFENDANTS AGREE AND STIPULATE AS FOLLOWS:

1. Defendants agree to pay \$100,000.00 in full and complete satisfaction of any and all claims, demands, rights, and causes of action pursuant to EAJA, 28 U.S.C. § 2412, and/or any other statute or common law theory, for all attorney's fees, costs, and expenses incurred by Plaintiffs in connection with the above-

captioned litigation. This payment is in addition to the payment of \$436.14 in previously taxed and paid costs. The United States may offset the payment amount for any delinquent debts owned by the payment recipients to the United States pursuant to 31 U.S.C. §§ 3711, 3716.

2. Defendants' payment, as identified in Paragraph 1 above, shall be accomplished by electronic funds transfer to Akland Law Firm PLLC. Within thirty days of final execution of the Stipulation, Plaintiffs shall provide the following information necessary for Federal Defendants to process the electronic funds transfer: the payee's bank account number, account type, bank routing, transit number and tax identification number.

3. Within thirty business days of receiving the information identified in paragraph two above, or the signed court order approving this Stipulation, whichever is later, Federal Defendants agree to submit all necessary paperwork to the appropriate offices and to make every reasonable effort to provide for payment to be transmitted within sixty days from receipt of the payment information or the signed court order approving this Stipulation, whichever is later. Plaintiffs and Plaintiffs' attorneys agree to hold Federal Defendants and the United States harmless in any litigation, further suit, or claim arising from the authorized transfer of the agreed-upon amount.

4. Plaintiffs agree that receipt of the above-described payment from Federal Defendants shall operate as a release of any and all claims for attorney's fees, costs, and expenses that Plaintiffs may have against Federal Defendants under any authority with respect to all aspects of the above-captioned litigation.

5. By this Stipulation, Federal Defendants do not waive any right to contest fees claimed by Plaintiffs, including the hourly rate, in any future litigation. Further, this Stipulation as to attorney's fees, costs, and expenses has no precedential value and shall not be used as evidence of such in any other attorneys' fees litigation.

6. No provision of this Stipulation shall be interpreted as or constitute a commitment or requirement that Federal Defendants obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other appropriations law.

7. This Stipulation represents the entirety of Plaintiffs' and Federal Defendants' commitments with regard to settlement. The terms of this agreement shall become effective upon final execution.

8. The Court shall retain jurisdiction to enforce the terms of this agreement.

9. The undersigned representatives of Plaintiffs and Federal Defendants certify that they are fully authorized by the party or parties that they represent to enter into the terms and conditions of this Agreement and do hereby agree to the terms herein.

Dated: August 8, 2019

/s/ Kristine M. Akland
Kristine M. Akland
Akland Law Firm, PLLC
Thomas Woodbury
FOREST DEFENSE PC

Attorneys for Plaintiffs

Dated: August 8, 2019

/s/ Dean K. Dunsmore
DEAN K. DUNSMORE
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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August 2019, a copy of the foregoing document was served on the following persons by the following means.

<u>1-3</u>	CM/ECF
<u> </u>	Hand Delivery
<u> </u>	U.S. Mail
<u> </u>	Overnight Delivery Service
<u> </u>	Fax
<u> </u>	E-Mail

1. Clerk of Court

2. Kristine M. Akland
AKLAND LAW FIRM, PLLC
P.O. Box 7274
Missoula, Montana 59807
(406) 544-9863 – phone
aklandlawfirm@gmail.com
Attorney for Plaintiffs

3. Thomas Woodbury
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Attorney for Plaintiffs

s/ Dean K. Dunsmore
Attorney for Defendants